

IN THE UNITED STATES DISTRICT COURT

FILED
BILLINGS, MT

FOR THE DISTRICT OF MONTANA

2006 DEC 21 PM 3 14

BILLINGS DIVISION

PATRICK E. DUFFY, CLERK

FRED LEON BARNEY,

Plaintiff,

vs.

TED LEWIS, DALE HENRICH,
SUE DRIVDAHL, LT. MOSIER,

Defendants.

CV-06-14-BLG-RFC

BY

DEPUTY CLERK

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE

On November 22, 2006, United States Magistrate Judge Richard W. Anderson entered his Findings and Recommendation. Magistrate Judge Anderson recommends this Court dismiss Plaintiff's complaints for failure to state a claim upon which relief may be granted. Magistrate Judge Anderson further recommends the docket reflect that the filing of this action count as one strike against Plaintiff, pursuant to 42 U.S.C. § 1997g.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1).¹ In this matter, no party filed objections to the November 22, 2006 Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). However, failure to object does not relieve this Court of its

¹In prisoner cases, this Court extends the time to object to twenty days in order to take into account the Supreme Court's ruling in *Houston v. Lack*, 487 U.S. 266, 270-71 (1988), and the somewhat greater mailing time that is involved in sending documents into and out of a prison facility.


burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After an extensive review of the record and applicable law, this Court finds Magistrate Judge Anderson's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** Plaintiff's complaints remand (*Docs. 1 & 4*) are **DISMISSED**. The docket shall reflect that the filing of this lawsuit count as one strike against Plaintiff, pursuant to 42 U.S.C. § 1997g.

The Clerk of Court shall notify the parties of the making of this Order.

DATED the 21st day of December 2006.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE